

**Subcommittee on Coast Guard and Maritime Transportation
Committee on Transportation and Infrastructure
U.S. House of Representatives**

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Field Hearing

November 2007 Oil Spill Causes and Responses

Written Statement of

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Madam Speaker, Mr. Chairman and members of the Committee, thank you for this opportunity to testify as a representative of Governor Schwarzenegger. I look forward to sharing the State of California's perspective concerning the Cosco Busan incident in the San Francisco Bay.

We take this incident very seriously. As the Governor has said, "Any delays that hamper response and cleanup efforts are completely unacceptable" and the State of California is committed "to investigate the full breadth of the incident and to get all the answers."

Office of Spill Prevention and Response

In 1990, following disastrous oil spills in Alaska and Huntington Beach California, the state legislature approved and Governor Deukmejian signed the Lempert-Keene-Seastrand Act to create the Office of Spill Prevention and Response (OSPR) within the Department of Fish and Game. The Department of Fish and Game is a division of the California Resources Agency. I serve as the Agency's secretary and sit as a member of the Governor's Cabinet.

OSPR functions under the leadership of its Governor appointed Administrator, Lisa Curtis, whose position is the equivalent to a Chief Deputy Director within Fish and Game. Lisa Curtis has been on-site at the incident command post and other locations as needed since Wednesday November 7. Her presence in the field remains critical; otherwise she would be here today. Joining me this morning are John McCamman, Acting Director of the Department of Fish and Game and Greg Hurner, Senior Advisor to the Director.

OSPR operates as both a prevention and response organization and is one of the few State agencies in the nation that has both major pollution response authority and public trust authority for wildlife and habitat. In this role, OSPR has a number of responsibilities, including:

- With the US Coast Guard and other participants, OSPR developed detailed area contingency plans to prepare for and respond to oil spills along California's coast. Contingency plans include all aspects of **prevention, preparedness** and **response** including an incident command structure, a 'best

response' concept for each incident, mandatory drills and training.

- As part of its responsibilities, DFG is the state's trustee for fish and wildlife resources and it is in this capacity that OSPR conducts Natural Resource Damage Assessments of pollution events. The goal of this program is to examine the natural resource injuries from oil spills or other marine pollution events, to quantify the damages, to seek compensation from the responsible parties, and to both restore the injured resources and compensate the public for the lost ecological benefits and uses of these resources. This process includes data collection, injury quantification, restoration scaling, settlement with the responsible party and restoration implementation. Since 1990, OSPR has helped recover in excess of \$100 million in damages, all of which is to be spent on wildlife and habitat restoration projects and projects that provide recreational benefits to the public. This process is already under way for the current incident.
- Funding for OSPR is generated by a per barrel fee on oil brought into California ports. The current annual allocation is \$34 million and 234 staff positions. In addition to this funding OSPR has an emergency fund of \$54 million and an additional \$54 million in available credit if it should be necessary.

OSPR is also charged with implementing the requirement that vessels provide certificates of financial responsibility (insurance) prior to entering state waters and for ensuring that recovery of response costs occurs. In this case, the Cosco Busan carried a certificate of financial responsibility in the amount of \$300 million, consistent with state requirements for a non-tank vessel.

- Response, investigation and enforcement of pollution violations are coordinated through OSPR, which also operates the spill dispatch function 24 hours a day.
- OSPR's Marine Safety Branch includes a maritime safety unit that focuses on spill prevention, a readiness unit to guide

responses and field operations components in several locations.

Together, all of these add up to our nations' most effective spill preparation and response agency.

Contingency Plans

OSPR requires and rates three types of contingency plans for oil spill incidents and considers this requirement an essential function of its mission.

1. *Vessel Contingency Plans* – These are developed by the shipper and are reviewed by OSPR. They contain notification schemes and response contracts. We check all vessel arrivals to ensure they have valid plans.
2. *Area Contingency Plans* – These are prepared by OSPR, the USCG and interested parties. In fact, the planning process for Area Contingency Plans is open to all stakeholders and has involved representatives from over 50 agencies, including environmental groups, city and county planners, state agencies, the federal government, and industry. These plans generally contain important site information and response strategies. We publish these plans on a Department of Fish and Game website.
3. *Oil Spill Response Organization (OSRO) Contingency Plans* – These plans are developed by the OSRO. OSPR makes the OSRO submit to unannounced drills before we allow them to work in California. Performance standards are directly linked to the reasonable worst case scenario identified in the Area Contingency Plans. California is the only state in the nation that requires performance standards for Oil Spill Response Organizations.

Collectively, each of these plans work together to ensure that appropriate measures can be carried out during a spill event to reduce the impact to the environment and human health and safety.

Cosco Busan Incident and OSPR's role in response

At approximately 8:30 a.m. on November 7, the Cosco Busan collided with the Bay Bridge resulting in a spill of fuel into the San Francisco Bay. OSPR was on scene at the US Coast Guard Station on Yerba Buena Island when notification was made that the ship hit the bridge and immediately began investigating evidence of a spill at approximately 9:20 a.m. At the time of notification and before evidence of an oil spill was detected, OSPR deployed a full field response team consisting of a biologist, technical specialist and warden. By 9:45 a.m., the US Coast Guard and OSPR joined as a unified command consistent with established plans. Our initial evaluation of OSPR's action was that response was immediate and consistent with approved guidelines.

Oil spill clean-up efforts have now transitioned from water recovery to beach clean-up, pressure washing of seawalls and shore structures, and decontamination of some vessels and equipment used in the response.

- Approximately 27,500 feet of boom is deployed.
- Participating in spill response are approximately 1,400 individuals, 25 support vessels, one skimmer, two helicopters and 20 volunteer fishing vessels
- Twenty Department of Fish and Game (DFG) wildlife teams, each consisting of two DFG search and recovery personnel are actively collecting wildlife in affected areas.
- Seven additional game wardens have been assigned to wildlife recovery and security operations.
- Approximately 525 personnel are assigned to Shoreline Clean-up Assessment Teams that are currently in place. Shoreline Cleanup Assessment Teams are trained to evaluate what cleanup strategy and measures are necessary and are then assigned where they are needed shoreline. Sixteen teams continue beach clean up, concentrating efforts in SF and Marin County.
- Estimated wildlife impacts: 1,918 birds recovered: 888 live oiled birds have been collected and transported to the Oiled Wildlife

Care Center in Cordelia and 830 dead birds were recovered. Retrieval efforts are ongoing.

- Twenty-seven Oiled Wildlife Care Network (OWCN) staff and 162 trained volunteers are at the Cordelia bird treatment facility
- Approximately 500 volunteers have completed five 4-hour Hazardous Communications training sessions. Hazardous Communication is OSHA recognized and is the lowest level of training that allows an individual to work in a potentially hazardous environment.
- DFG in conjunction with the OWCN has utilized 400 pre-trained volunteers and has trained an additional 350 convergent volunteers (those that show up to assist at the time of an incident) from the general public. Approximately 1,500 names have been added to the list of potential volunteers and over the next few days they will continue to be trained.

Governor Schwarzenegger's Actions

Since the oil spill, the Governor has been out to inspect the spill area on two separate occasions and agrees that there was some very serious human failure. He has also committed to do everything in his power "to make sure the State asks – and gets answers to – all the hard questions we need answered to adequately protect health, marine life and our environment."

Specific to the Cosco Busan incident, Governor Schwarzenegger has taken three significant actions:

1. Declared a state of emergency in the City and County of San Francisco and in the six other counties directly affected by the spill
2. Issued an Executive Order which closed recreational and commercial fisheries in the area impacted by the oil spill that could pose a potential risk to human health that may come from human consumption of marine life;
3. Called for a comprehensive state investigation into the oil spill incident

The Governor's Executive Order directs the Department of Fish and Game, in consultation with OSPR, to identify the area impacted by the oil spill. They have reviewed incident information, weather, tide and geographic information, and enforceability considerations and have determined the outermost estimated area of impact. Based on the Executive Order and this collected information, recreational and commercial fisheries within the boundaries of Pt. Reyes Lighthouse in the north, Carquinez Bridge to the east and San Pedro Point to the south and three miles out to sea have been closed while tests are being conducted.

This decision was not taken lightly but out of an abundance of caution for the public health. It is likely that this action will have consequences to fisheries and fish businesses in San Francisco and the Bay. We have and will continue to work with those businesses to ensure that these impacts are minimized to the extent possible. Those who incurred costs or lost opportunity as a result of the spill also have the ability to file financial claims with the Responsible Party through OSPR. This process does not require the filing of lawsuits in order to obtain reimbursement.

We hope the closure is temporary, and we await reports from CalEPA's Office of Environmental Health Hazard Assessment in consultation with the California Department of Public Health. Those departments have been reviewing the science and performing sampling and other investigations to determine the extent of any human health risk. The Governor has directed those reports be prepared before December 1.

It is important to reiterate that there has been no credible testimony of any current public health risk.

As to the comprehensive state investigation, Governor Schwarzenegger has tasked DFG, OSPR and the Governor's Office of Emergency Services (OES) to conduct an aggressive coordinated investigation into the causes and responses to the oil spill. The investigation will identify civil and criminal liability, and review all relevant procedures including preparation, response, notification and cleanup. There will be a natural resource damage assessment and a

determination of the associated economic impact. Other agencies, including OES and CalTrans, have been tasked with portions of the investigation.

Although we must wait for investigations to be completed, we do not believe it is too early to start looking forward at what else we can do and to take every step to ensure public safety, health and environmental safeguard.

Before I close, let me express thanks to the residents of the Bay Area and elsewhere who have contacted us to volunteer. The response has been extraordinary and overwhelming. We have never experienced this many individuals requesting to assist in a cleanup operation. The Governor requested that California Volunteers help OSPR to coordinate the volunteer response. We have not been able to utilize everyone who wants to volunteer and we know that has caused some frustration. However, it is critical that we operate in a manner where we can protect the health and safety of volunteers and this means not placing them in a hazardous situation, especially without appropriate training. We recognize that there has been criticism surrounding the utilization of volunteers and this is an item we will address moving forward.

Thank you for the opportunity to testify today. I hope that we can continue to work together to ensure that Californians and our resources continue to be effectively protected as we have witnessed over the past weeks.

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